

**PRELIMINARY DECISION MEMO**  
**ACCEPTANCE OF PERAZZO LAND DONATION**  
**AND**  
**AMENDMENT OF TAHOE NATIONAL FOREST**  
**LAND RESOURCE MANAGEMENT PLAN**

USDA Forest Service  
Tahoe National Forest  
Sierra County, California

**DECISION**

It is my decision to accept the donation of approximately 982 acres into the National Forest System to become part of the Tahoe National Forest. In conjunction with acceptance of this donation, I have also decided to amend the *Tahoe National Forest Land and Resource Management Plan* (1990) to add a goal and establish a standard that reflect the terms and conditions for the conveyance of this land as stipulated in agreements with the State of California Natural Resources Agency (Resources Agency), California Department of Transportation (Caltrans), California Wildlife Conservation Board (WCB), Truckee Donner Land Trust (TDLT) and the United States through the USDA Forest Service (USFS). These agreements are called the Formal Assignment of Grant Agreement (R81779-0) to the USDA Forest Service from the Truckee Donner Land Trust and the Assignment, Assumption, and Amendment of Grant Agreement for Acquisition of Fee Interest and Consent to Transfer of Fee Interest, and are collectively referred to as “agreements” herein. Upon transfer to the land, the agreements will be recorded in the county records and a copy of the recorded agreements will be filed in the title docket at the Tahoe National Forest (TNF) Supervisors Office. This decision is an administrative action and does not approve changes to the physical environment or disturbance of soil and vegetation; future resource management projects which may be proposed on the subject lands would require additional environmental review and opportunities for public involvement.

1. Land Donation

The land to be donated (Perazzo Property) includes:

- T.19N., R.15E., portions of Sec 21; portions of the S ½ Section 16; and the SE ¼ of Section 17, located on Sierraville Ranger District of the TNF, in Sierra County, CA.

See attached location map in Appendix A.

2. Amendment

Consistent with the terms in the agreement, I am amending the *Tahoe National Forest Land and Resource Management Plan* (LRMP) by adding the following goal for the LRMP to the Henness Management Area (MA #18). The plan goal recognizes the purposes for which the land was donated and states:

The Perazzo Property will be managed as National Forest System land for the following purposes:

- Provide public access (which includes managing and maintaining the existing trailhead and two

miles of trail until at least February 2029, so long as such management and maintenance complies with federal and state laws and regulations).

- Manage fish and wildlife habitat that promotes the recovery of threatened and endangered species, provides corridors linking separate habitat areas to prevent habitat fragmentation, and protects significant natural landscapes and ecosystems.
- Protect and restore rivers, lakes and streams, their watersheds and associated land, water, and other natural and historic resources.
- Promote ecological integrity of native forests.

Consistent with the terms of the agreement, I am also establishing a plan standard for the Perazzo Property that states:

- At least 45 days prior to transferring any interest in Perazzo Property; written notice of the intent to transfer will be given to California Wildlife Conservation Board with the full name, address and designated representative of the intended transferee. (Note: an interest in the property would include granting of a lease or easement, but would not include granting special use or grazing permits, or sale of forest products, including timber.)
- The Forest shall provide California Natural Resources Agency and California Department of Transportation reasonable advance written notice of any proposal to amend or revise the LRMP or other management plans or documents relating to the management or use of the Perazzo Property; and provide the Resources Agency and Caltrans the opportunity to fully participate in such planning process as an interested party.

The text of the plan goal and plan standard will be carried forward into future TNF LRMPs or successor management plans.

Appendix B contains the text of the LRMP amendment.

In accordance with 36 CFR 219.13(b)(5)(ii)(A), I have determined this amendment is directly related to the following substantive requirements and would result in beneficial effects on:

- Appropriate placement and sustainable management of infrastructure, such as recreational facilities. (36 CFR 219.10(a)(3));
- Habitat conditions, subject to the requirements of §219.9, for wildlife, fish, and plants commonly enjoyed and used by the public (36 CFR 219.10(a)(5));
- Public water supplies and associated water quality (36 CFR 219.10(a)(9))
- Opportunities to connect people with nature (36 CFR 219.10(a)(10)); and
- Rare aquatic and terrestrial plant and animal communities (36 CFR 219.9(a)(2)(ii)).

My decision enables the Tahoe National Forest to achieve shared objectives with our partners. Further, it provides for the addition of public land to benefit the public's interests, and advances the management goals for the TNF LRMP. I believe my decision augments the Tahoe National Forest's ability to meet its mission.

## **BACKGROUND**

The Perazzo Property is within the Sierra Nevada Checkerboard, which represents some of the most fractured land ownership patterns in the National Forest System. The USFS has been working with partners, including TDLT, to conserve lands and develop a more logical land ownership pattern within the

Checkerboard, for the purpose of improving public access, facilitating landscape-level ecosystem management and improving management efficiencies. In the immediate vicinity of the Perazzo Property, the USA has been actively acquiring and restoring lands within the Perazzo meadow system for the past several decades. This property involves one of the last remaining large privately-owned inholdings within the larger Perazzo meadow system. It consists of two adjoining tracts of land totaling approximately 982 acres and encompassing 16 parcels.

In 2007 and 2008, TDLT was granted funds by four California state agencies including WCB, Resources Agency, Caltrans and State Water Quality Control Board (hereafter collectively referred to as the State). The grants provided funding for the purchase of approximately 982 acres of land referred to as the Perazzo Property. Each of the four grants have a different purpose, all of which are aimed at assuring public access and the perpetual protection of the property's natural resources. The purposes are consistent with the laws the govern uses of National Forest System (NFS) land.

Using these State grants, TDLT purchased the property, thus preventing further fragmentation of the land and protecting the resource and public values. TDLT purchased the property with the intent of eventually donating it to the United States (USA), as reflected in the various grant applications. TDLT has built a trailhead and trail on the property, and is currently working with the USFS and Truckee River Watershed Council to accomplish watershed restoration on the property.

Upon completion of the restoration, TDLT intends to donate this land to the USA for management by the USFS as part of the Tahoe National Forest (TNF). The TNF intends to accept donation of this land, contingent upon conformance with agency public involvement, planning and environmental review procedures.

## **COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT AND NATIONAL FOREST MANAGEMENT ACT**

### **Appropriate NEPA procedures (§ 219.13(b)(3))**

As explained below, this amendment is consistent with Forest Service National Environmental Policy Act (NEPA) procedures and complies with the procedural provisions of the 2012 Planning Rule (36 CFR 219.13(b)). The effects of the plan amendment are documented in this decision memo following Forest Service NEPA procedures at 36 CFR Part 220. Because the appropriate NEPA documentation for this amendment is a decision memo, it is not considered a significant change to the plan for purposes of the National Forest Management Act (NFMA) (36 CFR 219.13(b)(3)).

## **NEPA**

### **APPLICABLE CATEGORIES**

These actions are categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA). The actions meet the scope and intent of the following categorical exclusion categories:

- 36 CFR 220.6(d)(6): *Acquisition of land or interest in land and*
- 36 CFR 220.6(e)(16): *Land management plans, plan amendments and plan revisions, developed in accordance with 36 CFR 219 et. seq. that provide broad guidance and information for project and activity decisionmaking in a NFS unit.*

## **EXTRAORDINARY CIRCUMSTANCES COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT AND NATIONAL FOREST MANAGEMENT ACT**

I find that there are no extraordinary circumstances that would warrant further analysis and documentation in an EA or EIS. I took into account resource conditions identified in agency procedures that should be considered in determining whether extraordinary circumstances might exist:

- 1) *Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species:* A portion of the Perazzo parcel is located in Critical Habitat for the endangered Sierra Nevada yellow legged frog (SNYLF). There is also habitat for sensitive willow fly catcher on the property. However no proposed, threatened, endangered or sensitive species or critical habitats will be adversely affected by this proposal because no ground disturbing activities are aligned with project implementation.
- 2) *Flood plains, wetlands, or municipal watersheds:* There will be no adverse effect on these resources because there are no ground disturbing activities aligned with project implementation.
- 3) *Congressionally designated areas such as wilderness, wilderness study areas, or national recreation areas:* The parcel is not located in congressionally designated areas.
- 4) *Inventoried roadless areas or potential wilderness areas:* This parcel is not located in an Inventoried Roadless Area or a potential wilderness area.
- 5) *Research natural areas:* The parcel is not located in Research Natural Areas.
- 6) *American Indians and Alaska Native religious or cultural sites:* There will be no adverse effect on these resources because there are no ground disturbing activities aligned with project implementation. The property will be managed to protect historic, cultural, and archaeological resources in conformity with the National Historic Preservation Act and the Archaeological Resources Protection Act.
- 7) *Archaeological sites, or historic properties or areas:* There will be no adverse effect on these resources because there are no ground disturbing activities aligned with project implementation. The property will be managed to protect historic, cultural, and archaeological resources in conformity with the National Historic Preservation Act and the Archaeological Resources Protection Act.

## **NATIONAL FOREST MANAGEMENT ACT**

Under the National Forest Management Act and its implementing regulations at 36 CFR 219 (2012 Planning Rule), a plan may be amended at any time. Plan amendments may be broad or narrow, depending on the need for the change. As the Responsible Official, I have the discretion to determine whether and how to amend the TNF LRMP and to determine the scope and scale of any amendment (36 CFR 219.13(a)).

### **Purpose of the Amendment (36 CFR 219.13(b)(1)).**

The purpose of the amendment is to meet the requirements of the agreements with the State agencies that require a plan amendment in order for this land to transfer to the USA. This amendment adds a plan goal that addresses the management of this specific Property's natural resources and establishes a plan standard that memorializes a commitment to notify the appropriate State agency of certain plans related to the management of this land. This amendment aligns with the Multiple Use Sustained Yield Act (MUSY) and the National Forest Management Act (NFMA).

## Compliance with the Planning Rule's Procedural Provisions

As explained below, this amendment complies with the procedural provisions of the 2012 Planning Rule (36 CFR Part 219.13(b)).

### Using the best scientific information to inform the planning process (§ 219.3):

Pursuant to 36 CFR 219.3, the Responsible Official shall use best available scientific information to inform the planning process and determine what information is the most accurate, reliable and relevant to the issues being considered. This plan amendment is proposed in response to a legal requirement, to amend the LRMP, contained in agreements with the State (Formal Assignment of Grant Agreement (R81779-0) to the USDA Forest Service from Truckee Donner Land Trust, Revised Environmental Enhancement and Mitigation Program (EEMP) Agreement Declaring Restrictive Covenants EEMP Project Number EEM-2007(06), Assignment and Assumption Agreement, and Assignment, Assumptions and Amendment of Grant Agreement for Acquisition of Fee Interest and Consent to Transfer of Fee Interest). These agreements will be recorded in escrow and will be legally binding on the USA. Therefore, it is the requirement of these agreements, not best available scientific information that is responsive to the issues driving this amendment.

### Providing opportunities for public participation (§ 219.4) and providing public notice (§ 219.16; § 219.13(b)(2)):

Subject to the notification requirements in § 219.16, the responsible official has the discretion to determine the scope, methods, forum and timing of the public notification and public participation opportunities, based on the scope and scale of the need to change the plan. This is a small amendment that adds a goal and sets a standard for 982 acres of land. Consistent with the limited scope and scale of this amendment, public notification and opportunities for public participation have been provided through a posting in the Tahoe National Forest Schedule of Proposed Actions (SOPA) in August, 2019 and a 30- day concurrent scoping and comment period initiated in November, 2019 through publication of a legal notice in the Forest's newspaper of record, Grass Valley's *The Union*. A letter was sent to potentially interested parties notifying them of this action.

**Format for plan components (§ 219.13 (b)(4); § 219.7 (e)):** The plan components added by this plan amendment are the establishment of a goal and a standard, per § 219.7(e)(2). The scoping notification with the State is covered under plan content for coordination activities, pursuant to 36 CFR 219.7(f)(2).

**The plan amendment process (§ 219.13):** The scope of the plan amendment is narrow, affecting approximately 982 acres of land offered in donation. The amendment is required by agreements that were negotiated with the State.

Based on this narrow scope, a decision memo is the appropriate level of documentation. Internal Forest Service scoping was conducted; Forest staff did not identify any extraordinary circumstances or the potential for significant adverse effects resulting from this action. The project is posted on the SOPA website and a 30-day public scoping and comment period (pursuant to 36 CFR 219.16(a)) offered.

### Objection opportunity (36 CFR 219.50 through 219.62)

The proposed amendment is subject to the Forest Service's Pre-decisional Administrative Review (objection) process at 36 CFR 219.50 through 219.59. Pursuant to 36 CFR 219. 53(a), individuals and entities who have submitted substantive formal comments regarding this plan amendment during the opportunities for public comment, as provided during the planning process for this preliminary decision memo, may file an objection. Objections must be based on previously submitted substantive formal comments attributed to the objector unless the objection concerns an issue that arose after the opportunities for formal comment.

Pursuant to 36 CFR 219.62, substantive formal comments are defined as: “Written comments submitted to, or oral comments recorded by, the responsible official or his designee during an opportunity for public participation provided during the planning process (§§ 219.4 and 219.16), and attributed to the individual or entity providing them. Comments are considered substantive when they are within the scope of the proposal, are specific to the proposal, have a direct relationship to the proposal, and include supporting reasons for the responsible official to consider.”

A formal scoping/comment period is being offered through publication of a legal notice in Grass Valley’s *The Union* beginning in October, 2019. Substantive formal comments concerning this action will be accepted by the Responsible Official for 30 calendar days following publication notice in the Grass Valley’s *The Union*, the newspaper of record. The publication date in the newspaper of record is the exclusive means for calculating the comment period for this proposed forest plan amendment.

**Effective date (§ 219.17(a)(2)):** The plan amendment will be effective upon recordation of the grant deed conveying the property to the United States.

## **Documenting Compliance with the Rule’s Applicable Substantive Requirements**

The planning rule requires that we determine which substantive requirements (36 CFR 219.8 through 219.11) are directly related to the amendment. We have identified those substantive provisions and describe how we have applied them within the scope and scale of the amendment (36 CFR 219.13(b)(5)) in the discussion that follows.

### **Scope and scale of the amendment**

The scope and scale of the amendment is narrow. The scale of the amendment applies to approximately 982 acres of land to be donated to the USA by TDLT. The scope of the amendment is to add a plan goal and establish a plan standard for these 982 acres of land to memorialize the purpose of the donation and the requirement to provide notification to the State under certain circumstances. The standard established is consistent with NFMA and MUSYA.

### **Rule provisions that are directly related to the amendment.**

The rule requires that substantive rule provisions (§ 219.8 through 219.11) that are directly related to the amendment must be applied to the amendment. A determination that a rule provision is directly related to the amendment is based on any one or more of the following criteria:

1. The purpose of the amendment (§ 219.13(b)(5)(i));
2. Beneficial effects of the amendment (§ 219.13(b)(5)(i));
3. Substantial adverse effects associated with a rule requirement (§ 219.13(b)(5)(ii)(A)); in this case, a decision memo is the appropriate NEPA documentation for the amendment, hence there is a rebuttable presumption that there is no substantial adverse effect, and thus no direct relationship between the rule and the amendment based on adverse effects (§219.13(b)(5)(ii)(B)).
4. Substantial lessening of protections for a specific resource or use (§ 219.13(b)(5)(ii)(A)).
5. Substantial impacts to a species or substantially lessening protections for a species (36 CFR 219.13(b)(6)).

Applying these criteria, I have determined this amendment will have beneficial effects (§ 219.13(b)(5)(i)) by providing:

- *Appropriate placement and sustainable management of infrastructure, such as recreational facilities.* (36 CFR 219.10(a)(3)); with a goal added to TNF LRMP that applies to these 982 acres in the Henness Management Area, to provide public access, including managing and maintaining the existing trail head and two miles of trail;
- *Habitat conditions, subject to the requirements of §219.9, for wildlife, fish, and plants commonly enjoyed and used by the public* (36 CFR 219.10(a)(5)), with a goal added to the TNF LRMP that applies to these 982 acres in the Henness MA, for preserving and enhancing habitat to protect special biological resources on this parcel.
- *Public water supplies and associated water quality* (36 CFR 219.10(a)(9)) with a goal added to the TNF LRMP that applies to these 982 acres in the Henness MA, for this parcel to protect and restore rivers, lakes and streams and their watershed;
- *Opportunities to connect people with nature* (36 CFR 219.10(a)(10)), with a goal added to the TNF LRMP that applies to these 982 acres in the Henness MA, to provide public access, including managing and maintaining the existing trail head and two miles of trail; and
- *Rare aquatic and terrestrial plant and animal communities* (36 CFR 219.9(a)(2)(ii)), with a goal added to the TNF LRMP that applies to these 982 acres in the Henness MA, for this parcel aimed at preserving and enhancing habitat to protect special biological resources, including the endangered Sierra Nevada yellow-legged frog and its designated Critical Habitat and willow flycatcher habitat, which are located within this parcel.

Having considered the NEPA analysis, I have determined that the amendment would not have adverse effects nor would it lessen protections. Under the planning rule at 36 CFR 219.13(b)(5)(ii)(B), a categorical exclusion provides a rebuttable presumption that the amendment will not have substantial adverse effects. No evidence has been presented to rebut that presumption.

The effects of the amendment are to allow the USA to accept donation of 982 acres while assuring public access and protection of natural resource values. The amendment establishes a standard for this donated land, and this standard aligns with the goals and objectives of the *Tahoe National Forest Land and Resource Management Plan* and the *Sierra Nevada Forest Plan Amendment* (2004). The goal and standard are consistent with the TNF LRMP's existing management direction for the Henness Management Area. This decision complies with the National Forest Management Act.

## **Project and activity consistency with the plan**

All future projects and activities must be consistent with the amended plan. The 2012 Planning Rule consistency provisions at 36 CFR 219.15(d) apply only to the plan component(s) added or modified under the 2012 Planning Rule. With respect to determinations of project consistency with other plan provisions, the Forest Service's prior interpretation of consistency (that the consistency requirement applies only to plan standards and guidelines) applies. (FSH 1909.12, ch. 20, sec. 21.33.)

## **PUBLIC INVOLVEMENT**

This action was published as a proposal on the SOPA in August, 2019. The preliminary decision memo has been made available for public review and comments. Only those individuals and entities who have submitted substantive formal comments regarding this plan amendment during the opportunity for public comment may file an objection.

## **FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS**

### **ENDANGERED SPECIES ACT**

This decision involves no ground disturbing activity. The acquisition of land within designated Critical Habitat for the Sierra Nevada yellow-legged frog could serve to provide additional protection for this species.

### **ADMINISTRATIVE REVIEW AND IMPLEMENTATION DATE**

As previously noted, the proposed TNF LRMP amendment is subject to the Forest Service's Pre-decisional Administrative Review (objection) process at 36 CFR 219.50 through 219.59. The plan amendment will be effective upon recordation of the grant deed, conveying the property to the United States.

### **CONTACT**

For additional information concerning this decision, please contact:

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### **SIGNATURE AND DATE**

Approved by:

\_\_\_\_\_  
ELI ILANO  
Forest Supervisor

\_\_\_\_\_  
Date

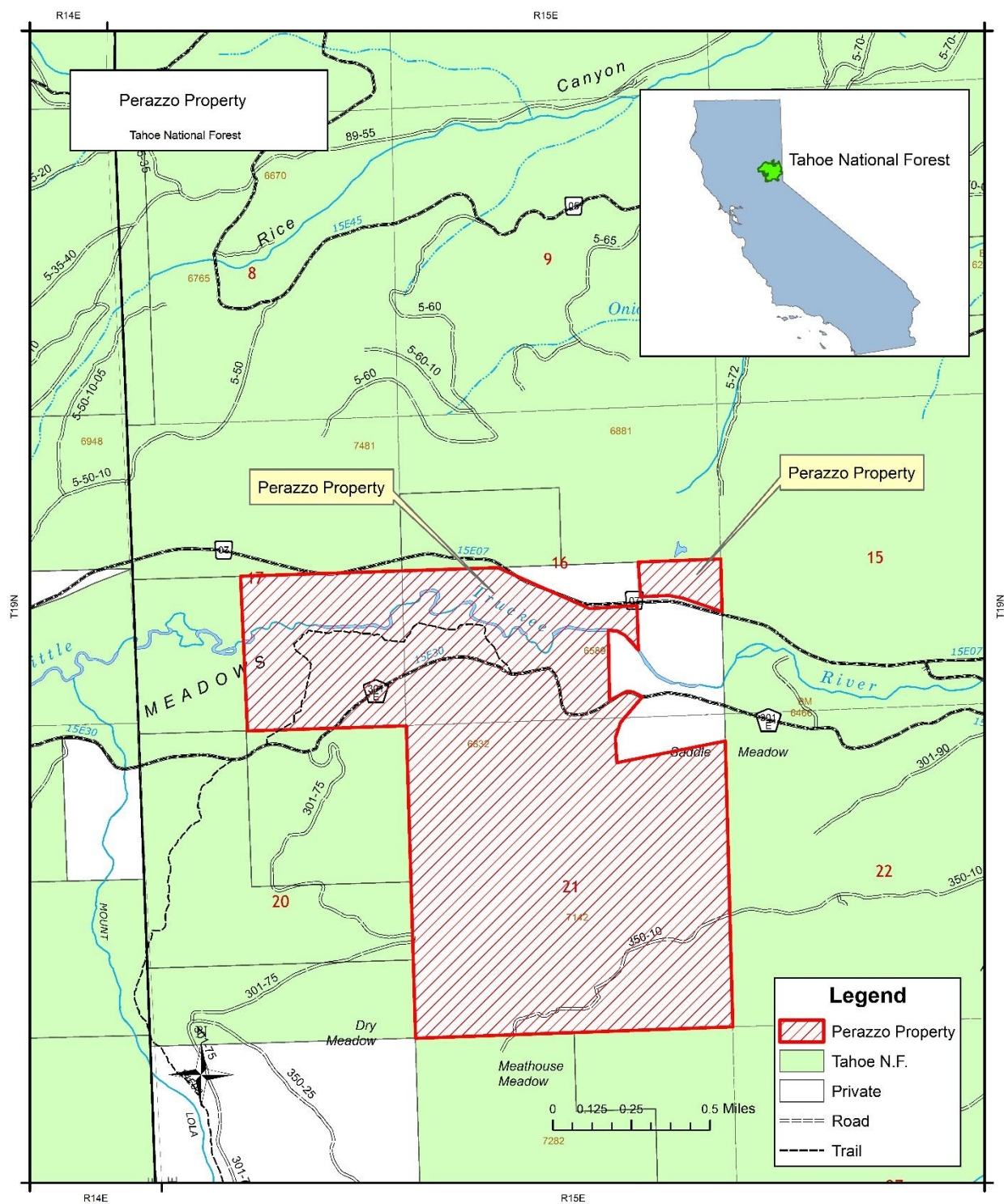


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## Appendix A



Document Path: T:\FS\NFS\Tahoe\Program\5400Landownership\GIS\SO\Fran\Land Adjustment\PerazzoNEPA.mxd

Map produced by F.Herbst

Date: 4/11/2018

## **Appendix B**

### **18-Henness MA**

The following language will be incorporated into the Management Area (MA) description and will be carried forward into future TNF LRMPs or successor management plans:

The National Forest System land in the SE ¼ of Section 17; the S ½ Section 16 and Sec 21 of T.19N., R.15E, was donated, subject to agreements between the United States Department of Agriculture (USDA) Forest Service, Truckee Donner Land Trust (donor) and California Natural Resources Agency Department of Transportation and Wildlife Conservation Board (State funders).

#### **Goal**

The agreements, recorded in the Official Records of Sierra County and filed with the Tahoe National Forest's land acquisition docket, specify that the Forest Service will manage the property for National Forest purposes consistent with the following purposes:

- Provide public access (which includes managing and maintaining the existing public access features, consisting of an existing trail head and two miles of trail, until at least February 2029, so long as such management and maintenance complies with federal and state laws and regulations).
- Manage fish and wildlife habitat that promotes the recovery of threatened and endangered species, provides corridors linking separate habitat areas to prevent habitat fragmentation, and protects significant natural landscapes and ecosystems.
- Protect and restore rivers, lakes and streams, their watersheds and associated land, water, and other natural and historic resources.
- Promote ecological integrity of native forests.

#### **Standard**

The agreements further require that the USFS shall:

- Provide California Natural Resources Agency (Agency) and Department of Transportation Environmental Enhancement and Mitigation Coordinator And Legal Division (Caltrans) reasonable advance written notice of any proposal to amend or revise the LRMP and endeavor to provide the Agency and Caltrans reasonable advance notice of any proposal to prepare any other management plans or documents relating to the management or use of this land. The USFS shall provide Agency and Caltrans with the opportunity to fully participate in such planning process as a interested parties.
- Provide the California Wildlife Conservation Board at least 45 days advance notice if there is a proposal to transfer an interest in this land, including the full name, address, and designated representative of the intended transferee. (Note: Transferring an interest in the land would include granting of an easement or a lease. It would not include granting a special use permits, grazing permits or sale of forest products, including timber.)